

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

BILLINGS DIVISION

JULIE DIMITROV, LAURETTA FERRANTI,)	
LAURA JEAN COLE, and OPAL BLAIR,)	CV-06-58-BLG-RFC
)	
Plaintiff,)	
vs.)	
)	ORDER
GALE NORTON, Secretary of the)	
DEPARTMENT OF THE INTERIOR;)	
KATHLEEN CLARKE, Director; BUREAU)	
OF LAND MANAGEMENT; HOWARD)	
LEMM, Acting Montana State Director,)	
BUREAU OF LAND MANAGEMENT; and)	
U.S DEPARTMENT OF INTERIOR,)	
)	
Defendant.)	
)	

On November 30, 2006, United States Magistrate Judge Richard W. Anderson entered his Findings and Recommendation. Magistrate Judge Anderson recommends that Plaintiff's motion for summary judgment be granted and the decision of the IBLA forfeiting 28 mining claims for failure to file a timely waiver application be reversed. Magistrate Judge Anderson also recommends that the case be remanded to the IBLA, with instruction to reinstate the leases upon compliance by Plaintiffs with the procedural requirements for doing so.

Upon service of a magistrate judge's findings and recommendation, a party has 10 days to file written objections. 28 U.S.C. § 636(b)(1) and Rule 72(b), F.R.Civ.P. Plaintiffs filed objections on December 14, 2006, Defendants filed objections on December 18, 2006, and

Plaintiffs responded to Defendants' objections on January 8, 2007. Defendants' objections are not well taken.

After a de novo review, the Court determines the Findings and Recommendation of Magistrate Judge Anderson are well grounded in law and fact and HEREBY ORDERS they be adopted with a few minor changes.

First, Magistrate Anderson recommended that: "The case should be remanded to the IBLA, with instructions to reinstate the leases upon compliance by Plaintiffs with the procedural requirements for doing so." However, it appears that Magistrate Anderson inadvertently used the word "leases" instead of "claims."

Second, Magistrate Anderson recommended that the 28 mining claims at issue be reinstated. However, it is apparent by its actions that the BLM considers all 29 claims at issue. Therefore, Magistrate Anderson's Findings and Recommendations should reflect that all 29 claims are to be reinstated.

Accordingly, **IT IS HEREBY ORDERED** that Plaintiffs' Motion for Summary Judgment is **GRANTED**. The decision of the IBLA forfeiting 28 mining claims for failure to file a timely waiver application is reversed. This case is remanded to the IBLA, with instructions to reinstate the 29 mining claims upon compliance by Plaintiffs with the procedural requirements for doing so.

The Clerk of Court shall notify the parties of the making of this Order and enter Judgment accordingly.

DATED this 14th day of March, 2007.

/s/ Richard F. Cebull
RICHARD F. CEBULL
UNITED STATES DISTRICT JUDGE